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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,726	01/07/2004	Timothy J. Crist	2973-A-31	4732
7590	07/02/2004		EXAMINER	
Cahill, von Hellens & Glazer P.L.C. 155 Park One 2141 East Highland Avenue Phoenix, AZ 85016			SWIATEK, ROBERT P	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/752,726

Applicant(s)

CRIST ET AL.

Examiner

Robert P. Swiatek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1-7-04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 7, 9, 10, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Farkas et al. (US 5,911,199). The Farkas et al. animal training device includes collar 14 attached to housing 16 containing control circuitry 54, transducer 44, and battery 42. Four electrodes 36 can be provided in openings 26, 28 formed within plates 18, 19 of the housing. Since the electrodes are in a rectangular array, an electrode 36 associated with, for example, flange 18A is offset from the straight line extending between the electrodes associated with flanges 19A, 19B; the offset electrode can be considered to comprise a “stabilizing post.”

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farkas et al. in view of Gonda (US 5,193,484: Ref. c on PTO-1449). The electrodes 36 of Farkas et al. lack insulating sheaths. However, it would have been obvious to one skilled in the art to surround the electrodes 36 of Farkas et al. with insulating material such that the electrode tips protruded

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beyond the insulation about 0.1 inch, in view of the patent to Gonda that such a construction minimizes parallel resistance between electrodes when the animal's fur is wet, increasing the sharpness of the electroshock stimulus (see column 8, lines 22-28, of Gonda).

Claims 11, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farkas et al. in view of Van Curen et al. (US 6,058,889). The collar and associated circuitry of Farkas et al. lack a vibration sensor capable of detecting vibrations indicative of barking and subsequently activating the electroshock stimulus. It would have been obvious to one skilled in the art to incorporate a vibration sensor into the stimulus control circuitry 54 of Farkas et al., in view of the patent to Van Curen et al. that the training device can then serve as a bark inhibitor (see elements 36, 44 of Van Curen et al.).

Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Farkas et al. In Figure 3 of Farkas et al., the electrode occupying the opening 28 in flange 18A is considered to constitute a stabilizing means for preventing rocking movement of the unit 16 about a line connecting the electrodes 36 of flanges 19A, 19B.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. In claim 1, line 11, claim 7, line 14, claim 11, line 17, claim 15, line 18, claim 19, line 12, and claim 20, line 14, each occurrence of the expression "and/or" is unclear and does not properly limit the scope of the invention.

Claims 2, 8, 12, 17, 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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The disclosure is objected to because of the following informalities: On page 2, line 16, "decreasing" should be changed to -decrease-; on page 6, line 7, the brief description of Figure 4 should be amended to refer to Figures 4-1 and 4-2 (the detailed description should be amended accordingly).

Appropriate correction is required.

The references to Yarnall Sr. et al. (US 5,769,032) and James (US 2004/0000274 A1) have been cited to provide additional examples of animal training devices.

RPS: 0703/308-2700  
28 June 2004

*Robert P. Swiatek*  
ROBERT P. SWIATEK  
PRIMARY EXAMINER  
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